

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SRI ENERGY LLC,

Case No. 1:22-cv-10431-JMF

Plaintiff,

- against -

CLEAN ENERGY NEXUS LLC,

Defendant.

DEFAULT JUDGMENT

Plaintiff, SRI Energy LLC (“SRI”), having commenced this action on December 9, 2022, by the filing of the Complaint with this Court [ECF No. 1] against Defendant, Clean Energy Nexus LLC (“CEN”); and a copy of the Summons and Complaint having been served on CEN on January 20, 2023; and CEN having failed to answer or otherwise respond to the Complaint, and the time for answering the Complaint having expired; and SRI having moved for entry of a Default Judgment on April 14, 2023 [ECF No. 22]; and upon the supporting Declaration of Jeffrey A. Leon [ECF No. 23] (the “Leon Decl.”) and the Memorandum of Law [ECF No. 24] in support of a Default Judgment; and upon the Court’s Order Scheduling Show Cause Hearing entered on June 16, 2023 [ECF No. 40] directing, *inter alia*, that CEN shall appear at a conference on June 27, 2023, and show cause before the Court why an order should not be issued granting a default judgment against Defendant, CEN; and the Court having

FOUND that

1. CEN was properly served with the Summons and Complaint on January 20, 2023, by Selena Cabrera of Columbia Process & Investigative Services, a process server retained by SRI to make service. Service was made upon Gwen Ellis, a Fulfillment Specialist employed by

LegalInc., which was designated to accept service on behalf of CEN as its registered agent. *See* ECF No. 10.

2. Pursuant to Federal Rule of Civil Procedure 12(a)(1)(A)(i), CEN had 21 days to serve an answer, which would have made its answer or other responsive pleading due on February 10, 2023.

3. To date, CEN has not filed an answer or other responsive pleading.

4. In addition to service of the Summons and Complaint, prior to seeking a default judgment, counsel to SRI has twice served orders (*i.e.*, the December 27, 2022 Order re: jurisdictional discovery [ECF No. 9] and the March 31, 2024 Order re: CEN's default [ECF No. 17]) by email on Joaquin Altenberg, the Chief Executive Officer of CEN, at joaquin@cleanenergynexus.com. *See* Leon Decl. ¶ 6. No response was received to either email. *Id.* ¶ 7. Nor was a response received indicating the email address did not exist or a notification that the CEN server had rejected the emails. *Id.*

5. On April 13, 2023, the Clerk of this Court issued its Notice of Default [ECF No. 21].

6. On April 17, 2023, the Court issued its Order Scheduling Default Judgment Briefing and Show Cause Hearing [ECF No. 25] directing, *inter alia*, that (i) CEN shall file any opposition to the motion for default judgment by April 28, 2023; and (ii) CEN shall appear at a conference on May 2, 2023, and show cause before the Court why an order should not be issued granting a default judgment against Defendant, CEN. SRI served CEN with a copy of the motion for a default judgment and all supporting papers, and a copy of the April 17, 2023 Order in accordance with such Order. *See* ECF Nos. 26 and 27.

7. CEN did not file any opposition papers to the motion for a default judgment.

8. On May 2, 2023, the Court issued its Order [ECF No. 28] concerning subject-matter jurisdiction.

9. On May 2, 2023, the Court held a conference in which counsel for SRI appeared. CEN did not appear at that conference. Following the May 2, 2023 conference, on May 2, 2023, the Court issued its Order in which CEN was Ordered to Show Cause before this Court on June 6, 2023, why it should not be held in contempt for its failure to comply with the jurisdictional discovery ordered by this Court. [ECF No. 29]. SRI served a copy of the second May 2, 2023 Order in accordance with such Order. *See* ECF Nos. 30. and 31.

10. In response, on June 5, 2023, Mr. Altenberg emailed counsel for SRI stating “I have no legal representation in this matter. We are closing the business ...” *See* ECF No. 32-2. In a subsequent email to SRI’s counsel on June 5, 2023, Mr. Altenberg wrote with regard to the Order to Show Cause hearing that he would “check with the court to see if I can attend virtually” *See* ECF No. 32-2.

11. On June 6, 2023, the Court held a conference in which counsel for SRI appeared. CEN did not appear at that conference. The Court itself tried calling Mr. Altenberg at the hearing on the cellphone number listed in Mr. Altenberg’s email, but the call went to voicemail. *See* Memorandum Opinion and Order [ECF No. 33], p. 4.

12. Following the June 6, 2023 conference, on June 8, 2023, the Court issued its Memorandum Opinion and Order [ECF No. 33]. The June 8, 2023 Memorandum Opinion and Order held CEN and Joaquin Altenberg, CEN’s Chief Executive Officer, in contempt of Court. More specifically, the Court (i) fined CEN \$100 per day for each day it continues to fail to comply with the Court’s December 22, 2022 Order requiring jurisdictional discovery, and (ii) held if CEN does not provide the relevant information within fourteen days of service of such Memorandum

Opinion and Order, the Court will issue an arrest warrant directing that Mr. Altenberg be brought before the Court. SRI served a copy of the June 8, 2023 Memorandum Opinion and Order in accordance with such Order. *See* ECF No. 34.

13. On June 9, 2023, Mr. Altenberg provided certain information in response to the June 8, 2023 Memorandum Opinion and Order, which SRI filed with the Court. *See* ECF No. 36. On June 12, 2023, the Court entered its Order [ECF No. 37], pursuant to which it tolled until June 16, 2023, the sanctions imposed by the June 8, 2023 Memorandum and Order. SRI served a copy of June 12, 2023 Order in accordance with such Order. *See* ECF No. 38.

14. On June 16, 2023, Mr. Altenberg provided certain information in response to the June 12, 2023 Order, in which Mr. Altenberg stated “I am a citizen of Puerto Rico.” SRI filed this information with the Court. *See* ECF No. 39.

15. On June 16, 2023, the Court entered its Order Scheduling Show Cause Hearing [ECF No. 40] directing, *inter alia*, that CEN shall appear at a conference on June 27, 2023, and show cause before the Court why an order should not be issued granting a default judgment against Defendant. SRI served a copy of the June 16, 2023 Order in accordance with such Order. *See* ECF No. 41.

16. On June 23, 2023, the Court entered its Order [ECF No. 43] directing, *inter alia*, that the hearing scheduled for June 27, 2023 will be held as scheduled, and that if CEN does not appear through counsel admitted to practice in this District, the Court may grant SRI’s motion for entry of a default judgment. SRI served a copy of the June 23, 2023 Order in accordance with such Order. ECF No. 45.

17. The Court conducted a hearing on the motion for entry of a default judgment on June 27, 2023 (the “Hearing”) in which counsel for SRI appeared. CEN did not appear through

counsel at the Hearing. At the Hearing, the Court granted SRI's motion for default judgment as to liability only and reserved judgment on damages, and directed SRI to submit additional support related to damages by July 5, 2023.

18. On June 27, 2023, the Court entered its Order [ECF No. 46] granting SRI's motion for default judgment as to liability only and reserved judgment on damages, and directed SRI to submit additional support related to damages by July 5, 2023. SRI served a copy of the June 27, 2023 Order in accordance with such Order. *See* ECF No. 49.

19. This Court has obtained information which establishes that this Court has subject-matter jurisdiction because the parties have complete diversity of citizenship and the amount in controversy is in excess of the jurisdictional minimum. Thus, the Court has authority to grant a default judgment against CEN in this action.

20. On June 27, 2023, this Court granted Plaintiff's motion for default judgment as to liability only and set a deadline for submission of additional support related to damages of July 5, 2023. *See* ECF No. 46.

21. This Court, having provided CEN adequate opportunity to respond to the motion for a default judgment, and being advised of no facts or circumstances justifying CEN's failure to answer or otherwise respond to the Summons and Complaint, finds and affirms that CEN is in default under FRCP 55(b), and that CEN owes damages to SRI in the amount of \$2,167,380.50 plus interest and costs as part of the default judgment as to liability which has already been entered against CEN as is set forth and explained in the July 5, 2023 submissions of SRI.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that

1. Plaintiff, SRI Energy LLC, shall have judgment against Defendant, Clean Energy Nexus LLC, in the amount of \$2,167,380.50, plus interest in the amount of \$161,124.35, from

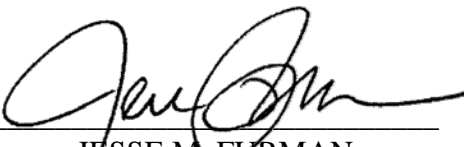
November 2, 2020 to July 12, 2023, in connection with the Medtronic Juncos Solar Project,¹ plus costs for the filing fee of \$402.00, for a total judgment amount of \$2,328,906.85.

2. Defendant, Clean Energy Nexus LLC, shall provide to Plaintiff, SRI Energy LLC, within 30 days of entry of this Judgment, an accounting with respect to the Selectos Venus Gardens Project described in that certain Joint Development Agreement dated February 20, 2019, between CEN and SRI, as amended by that certain Membership Interest Purchase Agreement dated November 27, 2019, between SRI and CEN.

3. Defendant, Clean Energy Nexus LLC, shall produce and provide to Plaintiff, SRI Energy LLC, within 30 days of entry of this Judgment, all of its books and records related to the Selectos Venus Gardens Project described in that certain Joint Development Agreement dated February 20, 2019, between CEN and SRI, as amended by that certain Membership Interest Purchase Agreement dated November 27, 2019, between SRI and CEN.

Dated: July 17, 2023
New York, New York

The Clerk of Court is directed to enter judgment
consistent with this Order and close the case.



JESSE M. FURMAN
United States District Judge

SO ORDERED.

¹ Pursuant to that certain Medtronic Juncos Solar Project described in that certain Joint Development Agreement dated February 20, 2019, between CEN and SRI, SRI is entitled to interest at the Federal Funds overnight rate as published in the Wall Street Journal, accrued from the date the amount was due (November 2, 2020), which interest is calculated as follows: \$3,206.40 for the period November 2, 2020 through December 31, 2020 (at the Federal Funds rate of .09% as of November 2, 2020 (\$53.44 per diem x 60 days)); \$17,339.04 for the period January 1, 2021 through December 31, 2021 (at the Federal Funds rate of .08% as of November 2, 2021); \$82,360.46 for the period January 1, 2022 through December 31, 2022 (at the Federal Funds rate of 3.80% as of November 2, 2022), and \$58,218.45 for the period January 1, 2023 through July 12, 2023 (at the Federal Funds rate of 5.08% as of June 30, 2023 (\$301.65 per diem x 193 days)).